

REMARKS

New grounds of rejection

Rejections under 35 USC 112, second paragraph

Claims 48-49 have been rejected under 35 USC 112, second paragraph. Applicant hereby cancels claims 48-49 without prejudice, rendering this rejection moot.

Rejections under 35 USC 101

Claims 18, 21, 23-26, 28-30 have been rejected under 35 USC 101, as being directed to non-statutory subject matter, because the specification recites transitory embodiments. Applicant has amended these claims to recite exclusively non-transitory embodiments, and requests the withdrawal of this rejection.

Claims 31-32 and 40-47 have been rejected under 35 USC 101, as being directed to non-statutory subject matter, because the modules recited can be all software. Applicant has amended these claims to recite that the modules are implemented at least in hardware, and requests the withdrawal of this rejection.

Prior grounds of rejection

Rejections under 35 USC 112, first and second paragraphs

Claim 1 has been rejected under 35 USC 112, first and second paragraphs. Applicant traverses this rejection of claim 1 for the same reasons that have been described in the previously filed appeal brief and reply brief.

Rejections under 35 USC 103

Claims 1 and 31 have been rejected under 35 USC 103(a) as being unpatentable over Willey (2003/0065918). Claims 2, 10-12, and 40-42 have been rejected under 35 USC 103(a) as being unpatentable over Willey in view of Slick (2003/0105963). Claims 13, 23, 26, 30, 31, and

43 have been rejected under 35 USC 103(a) as being unpatentable over Willey in view of Phillips (6,748,195). Applicant traverses these rejections for the same reasons that have been described in the previously filed appeal brief and reply brief.

Invitation to the Examiner

Applicant filed this appeal two years ago, in 2008. It appears that Applicant and the Examiner do not agree as to the patentability of the pending claims as to the prior grounds of rejection. It thus seems that Applicant is again headed towards reappealing this matter, at significant time and cost.

Applicant would prefer to wrap up prosecution of this patent application with a set of allowable claims without having to resort to another appeal. To this extent, Applicant warmly invites the Examiner to review the specification, the pending claims, and the prior art of record, to locate subject matter that if added to the pending claims, would render the claims allowable to the satisfaction of the Examiner. While Applicant believes that the pending claims are allowable, Applicant is nevertheless potentially prepared to give up some claim scope in order to have the present patent application allowed without the necessity of another appeal.

The Examiner is thus encouraged to contact Applicant's representative, Mike Dryja, at the phone number listed below, with suggested claim amendments that if made to the claims would render the present patent application allowable.

Concluding request

If the Examiner decides not to accept Applicant's invitation made above, but if the Examiner believes that the claim amendments made herein overcome the new grounds of rejection, then Applicant requests the Examiner to simply make the next office action final, instead of non-final, so that Applicant can proceed immediately to appeal without further delay. That is, Applicant believes that the claim amendments overcome the new grounds of rejection, such that the rejections that will remain after entry of these amendments are the old grounds of rejection as to which Applicant and the Examiner disagree. Therefore, issuing another non-final office action

in this matter would serve no purpose to move this patent application towards allowance, but rather would simply delay the inevitability of another appeal. As such, Applicant believes that the next action should be made final by the Examiner, at Applicant's request.

However, again, Applicant would like to have this case be allowed without another appeal, and therefore strongly encourages the Examiner to accept Applicant's invitation made above.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Michael Dryja", written over a horizontal line.

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Date

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